

APPEAL NO. 023143
FILED JANUARY 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 13, 2002. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) impairment rating (IR) is 29% as reported by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Section 408.125(e) provides that the report of the designated doctor has presumptive weight and that the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(g) (Rule 130.102(g)) provides that if there is no pending dispute regarding the date of maximum medical improvement (MMI) or the IR prior to the expiration of the first quarter, the date of MMI and the IR shall be final and binding. See Texas Workers' Compensation Commission Appeal No. 022406, decided November 7, 2002. The parties stipulated that the claimant sustained a compensable injury on _____, and that he reached MMI by operation of law on November 13, 1996. The designated doctor examined the claimant after the claimant reached statutory MMI and assigned him a 29% IR. The evidence reflects, and the hearing officer found, that the claimant did not dispute that IR until several years after the first quarter for supplemental income benefits ended. The hearing officer determined that the IR assigned by the designated doctor is final under Rule 130.102(g). The hearing officer's decision is in accord with Appeal No. 022406. We conclude that the hearing officer's decision that the claimant's IR is 29% is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Under the circumstances presented, we do not find that the hearing officer erred in not seeking clarification from the designated doctor regarding the claimant's October 2001 surgery.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge